

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2011-229-WS - ORDER NO. 2012-515

JULY 10, 2012

IN	Application of Daufuskie Island Utility	)	ORDER APPROVING
RE:	Company, Inc. for Approval of Water and	)	AND ADOPTING
	Sewer Rates, Terms and Conditions	)	SETTLEMENT
		)	AGREEMENT

The above-captioned matter is before the Public Service Commission of South Carolina ("Commission") on the proposed Settlement Agreement ("the Settlement Agreement") filed on June 25, 2012, by Haig Point Club and Community Association, Inc. ("HPCCA"), Bloody Point Property Owners Association, Inc. ("BPPOA"), Melrose Property Owners Association, Inc. ("MPOA"), and Daufuskie Island Utility Company, Inc. ("DIUC") (hereinafter collectively referred to as the "signatory agreeing Parties" or sometimes individually as a "Party"). As explained more fully below, the South Carolina Office of Regulatory Staff ("ORS") does not object to the Settlement Agreement and was identified as one of the signing "Parties to this Settlement Agreement." Intervenor Patrick M. Connolly, Esquire, did not submit prefiled testimony or appear at the hearing on May 30, 2012. The proposed settlement was stated into the record at the hearing on May 30, 2012, after partial introduction of the evidence.<sup>1</sup>

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<sup>1</sup> After the hearing on May 30, 2012, the parties agreed to change the additional annual revenue permitted by their settlement from \$291,448 to \$291,485.

This matter was initiated on June 6, 2011, when DIUC filed a letter of intent with the Commission and on January 10, 2012, DIUC filed an Application for approval of an adjustment in its rates and charges for water and sewer services with the Commission pursuant to S.C. Code Ann. § 58-5-240 and 26 S.C. Code Ann. Regs. 103-712.4.A and 103.512.4.A.

By letter dated January 24, 2012, the Commission's Clerk's Office instructed DIUC to publish a prepared Notice of Filing, one time, in newspapers of general circulation in the area affected by DIUC's Application. The Notice of Filing described the nature of the Application and advised all interested persons desiring to participate in the scheduled proceedings of the manner and time in which to file appropriate pleadings for inclusion in the proceedings as a party of record. The Commission also instructed DIUC to notify directly, by U.S. Mail, each customer affected by the Application by mailing each customer a copy of the Notice of Filing. On February 20, 2012, DIUC filed Affidavits of Publication demonstrating that the Notice of Filing had been duly published and provided a letter certifying that it had complied with the instructions of the Commission's Clerk's Office and mailed a copy of the Notice of Filing to all customers.

In response to a request for a local hearing, by Order No. 2012-196 (March 7, 2012), the Commission ordered a public night hearing.<sup>2</sup>

On March 13, 2012, DIUC revised its application. By letter dated March 20, 2012, the Commission's Clerk's Office instructed DIUC to publish a prepared

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<sup>2</sup> The purpose of the night hearing was to provide a forum, at a convenient time and location, for customers of DIUC to present their comments regarding the service and rates of DIUC.

Public Notice of Night Hearing and Revised Notice of Filing, one time, in newspapers of general circulation in the area affected by DIUC's Revised Application. The Public Notice of Night Hearing and Revised Notice of Filing described the night hearing to be conducted on April 30, 2012, and the nature of the Revised Application and advised all interested persons desiring to participate in the amended schedule of the proceedings of the manner and time in which to file appropriate pleadings for inclusion in the proceedings as a party of record. The Commission also instructed DIUC to notify directly, by U.S. Mail, each customer affected by the Application by mailing each customer a copy of the Public Notice of Night Hearing and Revised Notice of Filing. On April 5, 2012, DIUC filed Affidavits of Publication demonstrating that the Public Notice of Night Hearing and Revised Notice of Filing had been duly published and provided a letter certifying that it had complied with the instructions of the Commission's Clerk's Office and mailed a copy of the Notice of Filing to all customers.

On April 30, 2012, the Commission held a night hearing at Haig Point Club and Community Association, 10 Haig Point Circle, Daufuskie Island, South Carolina to hear comments from members of the public.

The Commission, with Chairman Howard presiding, heard the expert witnesses testify on DIUC's Application beginning at 10:30 am on May 30, 2012, at the Commission Hearing Room located at 101 Executive Center Drive in Columbia, South Carolina. DIUC was represented by G. Trenholm Walker, Esquire. ORS was represented by Nanette S. Edwards, Esquire, and Courtney D. Edwards,

Esquire. Intervenors HPCCA, BPPOA, and MPOA were collectively represented by John F. Beach, Esquire. Intervenor Patrick M. Connolly, Esquire, did not appear at the merits hearing.

Negotiations between the signatory agreeing Parties in this proceeding, with ORS participating, resulted in a proposed settlement during the course of the merits hearing on May 30, 2012, and ultimately in the Settlement Agreement signed by the Parties on June 25, 2012. In the Settlement Agreement, the Applicant, the three property owner's groups and the Office of Regulatory Staff are collectively defined as the "Parties." The Settlement Agreement also identifies these same entities as "Parties to this Settlement Agreement." However, the first paragraph explains that the Settlement Agreement is "made . . . without objection from the South Carolina Office of Regulatory Staff ("ORS")." Further, the Settlement Agreement signature page "representing and binding" the ORS, states: "We do not object to and acknowledge the effect of this settlement."

The signatory agreeing Parties have all determined that their interests, as well as the public interest, are best served by settling the dispute in this matter under the terms and conditions in the Settlement Agreement and set forth below.

By signing the Settlement Agreement, the signatory agreeing Parties' counsel acknowledged their respective clients' consent to its terms. The Settlement Agreement provides that the signatory agreeing Parties all viewed the terms of the agreement to be fair and reasonable.

The Commission considered and evaluated the Settlement Agreement at its meeting on June 27, 2012. The Commission is fully familiar with this matter based on the evidence and arguments that were presented at the merits hearing on May 30, 2012, and determined that no additional testimony or other proof is necessary.

All signatory agreeing Parties have agreed in the Settlement Agreement that a resolution of this matter on the terms therein allows DIUC to continue to provide water and wastewater services to its customers, and would provide a fair and reasonable operating margin and return on equity to DIUC.

The rates for residential and commercial water, sewer, and irrigation, as well as the charges for availability fees, are specified in Settlement Agreement Exhibit 1, which is attached to and incorporated as a part of this Order as Order Attachment No. 1.

We find that the rates and charges agreed to by the signatory agreeing Parties and not objected to by ORS are fair and reasonable and will allow DIUC to continue to provide its customers with adequate water and wastewater service. We specify an allowable operating margin of 16.64% and find that a rate of return on equity of 8.81% is fair and reasonable under the circumstances based on the proof admitted into evidence at the hearing.

The signatory agreeing Parties all agreed, and this Commission finds, that an increase in rates and charges (including availability fees) for water and sewer rates, fees, and charges is necessary. DIUC (through its predecessors) has not obtained an increase in its rates and charges since 2005. Since that time, DIUC's costs of

providing service have increased so that it can no longer earn a fair return on its investment. Significant facilities operated by DIUC are in need of maintenance and repair.

The signatory agreeing Parties therefore agreed and stipulated to certain rates and charges, which we hereby approve, that are specified in Settlement Agreement Exhibit 1 and included in Order Attachment No. 1. We agree with the signatory agreeing Parties that the rates and charges contained in the Settlement Agreement are fair and reasonable, and will allow DIUC to continue to provide its customers with adequate water and wastewater services.

The Commission further finds that the additional conditions imposed under the Settlement Agreement with respect to annual reporting to the Commission and ORS on the intended loan are also fair, reasonable, and necessary.

The Commission finds the terms and conditions set forth in the Settlement Agreement and Exhibits thereto are fair and reasonable to the Parties and ORS as well as to the DIUC customers affected by the rates and fees approved by this Order.

After careful review and consideration of the Settlement Agreement, the evidence in the record in this proceeding, and the representations of counsel, the Commission concludes as a matter of law that (i) approval of the Settlement Agreement is in the public interest; (ii) the residential and commercial rates, fees, and charges (including availability fees) for both water and sewer agreed to by the signatory agreeing Parties and not objected to by ORS, and as set forth in Order

Attachment No. 1 attached hereto are reasonable and fair and should be put into effect after the notice required herein.

An examination of Settlement Agreement Exhibit 2, attached hereto as part of Order Attachment No. 1, reveals that, based on the operating revenues, income, and expenses agreed upon by the parties, the additional revenues produced by the new rates and charges will result in an operating margin for DIUC of 16.64% and return on equity of 8.81%. We find that the new rates and charges provide DIUC with the opportunity to earn a return on equity of 8.81% for this Company.

IT IS THEREFORE ORDERED THAT:

1. The Settlement Agreement, including its attached Exhibits, is attached hereto as Order Attachment No. 1, is accepted into the record without objection, and is incorporated into and made part of this Order by reference. Further, we find the Settlement Agreement is in the public interest and constitutes a reasonable resolution of this proceeding, and we therefore approve the settlement in its entirety.

2. The statement of proposed rates, fees, and charges attached to the Settlement Agreement (Order Attachment No. 1) is entered into the record of this case without objection. We find that the proposed rates, fees, and charges are both fair and reasonable and will allow DIUC to continue to provide its customers with adequate water and wastewater services. We further find that the additional terms and conditions set forth in the Settlement Agreement, including its reporting requirements if DIUC should obtain a bank loan, are reasonable and fair.

3. The Company is to provide thirty (30) days' advance notice of the increase to customers of its water and wastewater services prior to the rates and schedules being put into effect for service rendered. The schedules shall be deemed to be filed with the Commission pursuant to S.C. Code Ann. § 58-5-240.

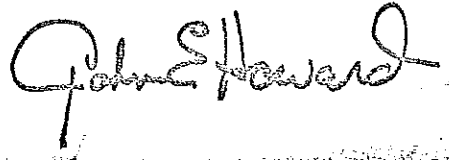
4. A return on equity of 8.81% based on the new rates, fees, and charges is approved for DIUC, as well as an operating margin of 16.64%

5. The Company shall continue to maintain current performance bonds in the amounts of \$350,000 for water operations and \$350,000 for wastewater operations pursuant to S.C. Code Ann. § 58-5-720.

6. The Company's books and records shall be maintained according to the National Association of Regulatory Utility Commissioners ("NARUC") Uniform System of Accounts. The Company is directed to make any necessary adjustments to its accounting system to conform to the NARUC Uniform System of Accounts.

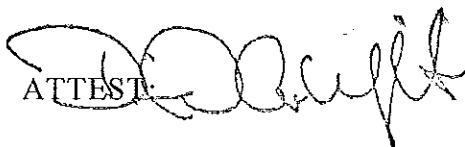
7. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



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John E. Howard, Chairman

ATTEST: 

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David A. Wright, Vice Chairman

(SEAL)



**BEFORE**  
  
**THE PUBLIC SERVICE COMMISSION OF**  
  
**SOUTH CAROLINA**  
  
**DOCKET NO. 2011-229-WS**

IN RE: Application of Daufuskie Island Utility,	)	
Company, Inc. for Approval of Water	)	<b>SETTLEMENT AGREEMENT</b>
& Sewer Rates, Terms and Conditions	)	
_____	)	

This Settlement Agreement is made by and among, Haig Point Club and Community Association, Inc. ("HPCCA"), Bloody Point Property Owners Association, Inc. ("BPPOA"), Melrose Property Owner's Association, Inc. ("MPOA") (all three, collectively, the "POA Intervenors"), and Daufuskie Island Utility Company, Inc. ("DIUC") and without objection from the South Carolina Office of Regulatory Staff ("ORS") (hereinafter collectively referred to as the "Parties" or sometimes individually as a "Party").

WHEREAS, on January 10, 2012, DIUC filed an Application for Approval of Water and Sewer Rates, Terms and Conditions ("Application") with the Public Service Commission of South Carolina ("Commission");

WHEREAS, the Parties to this Settlement Agreement are parties of record in the above-captioned docket;

WHEREAS, Intervenor Patrick M. Connolly, Esquire did not submit pre-filed testimony or appear at the hearing on May 30, 2012 and is not a signatory to this Settlement Agreement;

WHEREAS, the Parties commenced the merits hearing before the Commission on May 30, 2012, and during the course of the hearing engaged in discussions that resulted in a settlement of this proceeding after certain proof was admitted into the record;

WHEREAS, the Parties have each determined that their respective interests and the public interest would best be served by settling the above-captioned case and agreeing to a resolution of the various issues on the terms and conditions set forth below:

1. The Parties agree that an increase in water and sewer rates is necessary. DIUC (or its predecessor entities) has not applied for and received an increase in rates since 2005. The current rates do not enable DIUC to cover its costs of providing service and earn a fair return on its investment.
2. In the current proceeding, the Parties disputed the adjustment in rates, fees, and charges that would be necessary to provide DIUC a fair return on its investment as well as the rate of return and other matters.
3. The Parties agree and stipulate that DIUC shall be allowed to set rates and charges on a rate base of \$5,000,000. This stipulated rate base shall not be binding in future proceedings, instead those proceedings will be determined based on the evidence presented in each docket and the applicable law.
4. The Parties agree and stipulate that DIUC shall be entitled to an adjustment in rates and charges sufficient to generate additional revenues for the test year of \$291,485 based on the test year revenues after adjustments proposed by ORS in its pre-filed testimony and exhibits.

5. The Parties agree that this additional revenue would result in an operating margin of 16.64% and a return on equity of 8.81%.
6. The parties agree to the adjustment of the rates, fees, and charges to derive the additional revenue as set forth on the schedule of proposed rates, fees, and charges attached as Exhibit 1.
7. The Parties agree that the stipulated proposed rates, fees, and charges, and resulting additional revenues, allow DIUC the opportunity to earn a fair rate of return, as calculated on Exhibit 2. These stipulations shall not be binding in future proceedings, instead those proceedings will be determined based on the evidence presented in each docket and the applicable law.
8. DIUC agrees that it will not file an application for an increase in and/or adjustment to its rates and charges before July 1, 2014.
9. The Parties agree not to further litigate whether availability fees collected by DIUC or its predecessors that have been collected over the years were an approved rate or charge of the Commission.
10. DIUC intends to seek a loan from a financial institution. If DIUC obtains the loan, DIUC agrees to file a report annually (no later than the anniversary date of the loan) with ORS and the Commission (under this docket number), with copy mailed to the POA Intervenor at an address to be provided within 30 days of the Agreement, scheduling the use of the funds of the loan.
11. If the loan in the paragraph above is obtained, DIUC agrees to set up a capital reserve of no less than \$700,000 for capital repairs and improvements and shall file a report annually (no later than the anniversary date of the loan) with ORS and the

Commission (under this docket number), with copy mailed to the POA Intervenor at an address to be provided within 30 days of the Agreement, scheduling the use of the funds of the capital reserve account.

12. The Parties agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission as a fair, reasonable and full resolution of the above-captioned proceeding. The Parties agree to use reasonable efforts to defend and support any Commission Order issued approving this Settlement Agreement and the terms and conditions contained herein.

13. The Parties agree that this Settlement Agreement does not constrain, inhibit or impair in any way the arguments or positions they may choose to assert in future proceedings. If the Commission should decline to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement without penalty.

14. This Settlement Agreement shall be interpreted according to South Carolina law.

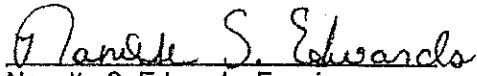
15. Each Party acknowledges its consent and agreement to this Settlement Agreement by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of this Settlement Agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement.

16. The Parties agree that no other evidence will be offered in the proceeding by the Parties other than what has already been admitted and this Settlement Agreement with Settlement Agreement Exhibits hereto attached.
17. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

**[PARTY SIGNATURES TO FOLLOW ON SEPARATE PAGES]**

WE DO NOT OBJECT TO AND ACKNOWLEDGE THE EFFECT OF THIS  
SETTLEMENT:

Representing and binding the South Carolina Office of Regulatory Staff:

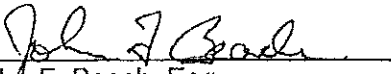


Nanette S. Edwards, Esquire  
**South Carolina Office of Regulatory Staff**  
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Columbia, South Carolina 29201  
Phone: (803) 737-0575  
Fax: (803) 737-0895  
Email: [nsedwar@regstaff.sc.gov](mailto:nsedwar@regstaff.sc.gov)

Date: June 25, 2012

WE AGREE:

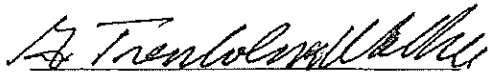
Representing and binding Haig Point Club and Community Association, Inc.  
("HPCCA"), Melrose Property Owner's Association, Inc. ("MPOA"), and Bloody  
Point Property Owners Association, Inc. ("BPPOA"):

  
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[jbeach@ellislawhorne.com](mailto:jbeach@ellislawhorne.com)

Date: June 25, 2012

WE AGREE:

Representing and binding Daufuskie Island Utility Company, Inc.



G. Trenholm Walker, Esq.  
Pratt-Thomas Walker, P.A.  
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Date: June 25, 2012



## SETTLEMENT AGREEMENT EXHIBIT 1

## Daufuskie Island Utility Company, Inc.

Settlement Rates		Haig Pt. Rates	Melrose Rates
<b>I. <u>Residential Rates</u></b>			
<b>A. <u>Water:</u></b>			
1) Tapping Fees & 3/4" Meter Box		\$500.00	\$500.00
2) Base Quarterly Charge		\$62.09	\$80.72
3) Consumption Charge (per 1,000 gallons)	0 to 22,500 gallons per quarter	\$2.76	\$0.00
	Over 22,500 gallons	\$2.76	\$2.44
<b>B. <u>Sewer:</u></b>			
1) Tapping Fees & Service Lateral		\$500.00	\$500.00
2) Base Quarterly Charge		\$110.38	\$80.72
3) Volumetric Charge (per 1,000 gallons)	0 to 22,500 gallons per quarter	\$1.32	\$0.00
	Over 22,500 gallons	\$1.32	\$1.77
<b>C. <u>Irrigation:</u></b>			
1) Tapping Fees & 3/4" Meter Box		\$500.00	\$500.00
2) Consumption Charge (per 1,000 gallons)	0 to 18,000 gallons per quarter	\$2.76	\$1.66
	18,001 to 60,000 gallons	\$3.09	\$1.66
	Over 60,000 gallons	\$3.50	\$1.66
<b>II. <u>Commercial Rates</u></b>			
<b>A. <u>Water:</u></b>			
1) Tapping Fees per Hotel or Inn Room		\$250.00	\$250.00
2) Tapping Fees up to 1-1/2" Meter		\$500.00	\$500.00
3) Tapping Fees 2" or 3" Meter		\$1,500.00	\$1,500.00
4) Tapping Fees for 6" Meter		\$3,500.00	\$3,500.00
Note: Larger meters on a case by case basis.			
5) Base Quarterly Charge		\$86.93	\$136.60
6) Consumption Charge (per 1,000 gallons)	0 to 22,500 gallons per quarter	\$2.76	\$0.00
	Over 22,500 gallons	\$2.76	\$2.44
<b>B. <u>Sewer:</u></b>			
1) Tapping Fees per Hotel or Inn Room		\$250.00	\$250.00
2) Tapping Fees 4" - 8" Sewer Pipe		\$500.00	\$500.00
2) Base Quarterly Charge		\$178.21	\$136.60
3) Volumetric Charge (per 1,000 gallons)	0 to 22,500 gallons per quarter	\$1.32	\$0.00
	Over 22,500 gallons	\$1.32	\$1.77
<b>C. <u>Irrigation:</u></b>			
1) Tapping Fees & 3/4" Meter Box		\$500.00	\$500.00
2) Consumption Charge (per 1,000 gallons)	0 to 18,000 gallons per quarter	\$2.76	\$1.66
	18,001 to 60,000 gallons	\$3.09	\$1.66
	Over 60,000 gallons	\$3.50	\$1.66

III. Availability Rates (Quarterly)

A. <u>Water:</u>	\$31.04	\$76.36
B. <u>Sewer</u>	\$55.19	\$85.08

IV. Special Conditions

A. Tapping Fees:

Remain as in original tariff.

B. Backflow Prevention:

Remain as in original tariff.

C. System Development Charge:

Remain as in original tariff.

## SETTLEMENT AGREEMENT EXHIBIT 2

Daufuskie Island Utility Company, Inc.  
Docket No. 2011-229-WS

Determination of Revenue Increases and Rates of Return and Operating Margin  
per Settlement Agreement

<u>Description</u>		<u>Taxes and Rates</u>			<u>Combined</u>
<u>(a)</u>	<u>(b)</u>	<u>(c)</u>	<u>(d)</u>	<u>(e)</u>	<u>(f)</u>
3 Revenue at Present Rates (Per ORS)					\$714,996
4 Additional Service Availability Revenue (Per ORS)					\$52,422
5 Subtotal Present Revenue					\$767,418
6 SETTLEMENT AGREEMENT ADDITIONAL REVENUE					\$291,485
7 Total Revenue - Proposed Rates per Settlement Agreement					\$1,058,903
8 <i>(Percent Increase)</i>					37.98%
9 O&M Expense					\$493,574
10 Bad Debts Adjustment				0.01339	\$4,604.91
11 Depreciation					\$56,177
12 Amortization					\$15,000
13 Revenue Taxes	0.95100%				\$10,070
14 Property Taxes					\$172
15 Payroll Taxes					\$9,128
16 Interest Expense					\$195,000
17 Total Expenses and Deductions					\$783,726
18 Net Income Before Taxes					\$275,177
19 State Tax		5.0%			\$13,759
20 Fed Taxable Income					\$261,418
21 Fed Income Tax					\$85,203
22 1st \$50,000 @ 15%	50000		7500	15%	
23 Next \$25,000 @ 25%	25000	75000	13750	25%	
24 Next \$25,000 @ 34%	25000	100000	22250	34%	
25 Next \$235,000 @ 39%	235000	335000	113900	39%	
26 Over \$335,000 @ 34%				34%	
27 Composite Rate - average					32.6%
28 Net Income (after taxes) - Equity Return					\$176,215
29 Common Equity					\$2,000,000
30 Return on Equity					8.81%
31 Return on Rate Base					7.42%
32 Operating Margin					16.64%
<u>SETTLEMENT CAPITAL STRUCTURE</u>					
33 Interest Rate					6.5%
34 Long-term Debt				60%	\$3,000,000
35 <i>(debt portion)</i>					60%
36 Common Equity					\$2,000,000
37 <i>(equity portion)</i>					40%
38 Total Rate Base					\$5,000,000
39 <i>(total)</i>					